IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.29940 of 1998

Between:

The Aisha Minority Educational and Rural Development Society,

Rayachoty, Cuddapah District, rep. By its Correspondent/Secretary- G.Md. Rafi, S/o G.Gurappa, R/o Rayachoty,
Cuddapah.

..... PETITIONER

AND

1 The Government of A.P., Rep. by its Secretary,
Department of School Education, Secretariat,
Hyderabad.
2 The Director of School Education,
Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of Writ of Mandamus declaring the order of the 2nd respondent in proceedings Rc.No.889/N2-2/98, dated 02/09/1998 returning Inspection fee as application withdraw as arbitrary, illegal, unjust and violative of principles of natural justice and consequently set aside the same and direct the respondents to retain the inspection fee and scrutinize and pass orders on the petitioners application dated 23.03.1998 and grant no objection certificate.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the proceedings Rc.No.889/N2-2/98, dated 02.09.1998 of the 2nd respondent in treating the application of the petitioner-Society, dated 23.03.1998, filed for issuance of 'No objection Certificate' to open B.Ed. College, as withdrawn and returning the inspection fee as illegal and arbitrary and consequently to direct the respondents to retain the inspection fee, scrutinize their application and grant 'No objection Certificate' to open B.Ed. College.

The case of the petitioner-Society, in brief, is that pursuant to the Notification, dated 06.03.1998 of the Government, it submitted an application dated 23.03.1998 to the 2nd respondent-Director of School Education along with relevant documents, Demand Draft No.409402, dated 23.03.1998 for Rs.15,000/- towards inspection fee, Copy of BDR for Rs.5.00 Lakhs towards corpus fund, for obtaining 'No objection Certificate' to open private B.Ed., College for the academic year 1998-99. It is stated that as the academic year had already commenced and since no orders have been passed on the said application, the petitioner-Society made a representation to the 2nd respondent-Director of School Education requesting him to return the corpus fund of Rs.5.00 Lakhs only, as the said amount was raised from loans and as there is every likelihood of accumulation of interest, and undertaking to deposit the said amount as and when demanded to scrutinize the application for issuance of 'No objection Certificate' for the next academic year. The grievance of the petitioner-Society is that instead of returning the said corpus fund, the 2nd respondent, vide impugned proceedings dated 02.09.1998, accorded permission to withdraw the application as well as the corpus fund and it is stated that they never made any

representation seeking permission to withdraw the application and they sought for refund of corpus fund only. Hence, the present writ petition is filed.

Though the writ petition was admitted on 05.11.1998, no counter affidavit is filed by the respondents so far denying the allegations made in the affidavit filed in support of the writ petition, and on last occasion, as there was no representation on behalf of the respondents the matter was directed to be listed today. Today also, in spite of passing over the matter to 2.15 P.M., none appears for the respondents nor is there any representation made on their behalf. No interest is shown by the respondents in prosecuting the matter.

In the circumstances, this Court has no other alternative except to presume that the pleas raised by the petitioner in the affidavit filed in support of the writ petition are true and the respondents have no defence for that.

Accordingly, the writ petition is allowed. No costs.

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N.V. RAMANA, J.

Date: 13.04.2005

Nsr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday, the Thirteenth day of April, Two Thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Government of A.P.,
Department of School Education, Secretariat,
Hyderabad.
2 The Director of School Education,
Hyderabad.

3 Two CCs to GP for School Education, High Court Buildings,

Hyderabad (OUT)

4 Two CD copies

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